

**§ 12315. Reserves: duty with or without pay**

(a) Subject to other provisions of this title, any Reserve may be ordered to active duty or other duty—

- (1) with the pay and allowances provided by law; or
- (2) with his consent, without pay.

Duty without pay shall be considered for all purposes as if it were duty with pay.

(b) A Reserve who is kept on active duty after his term of service expires is entitled to pay and allowances while on that duty, except as they may be forfeited under the approved sentence of a court-martial or by non-judicial punishment by a commanding officer or when he is otherwise in a non-pay status.

(Aug. 10, 1956, ch. 1041, 70A Stat. 31, § 683; renumbered § 12315, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
683(a) .....	50:971.	July 9, 1952, ch. 608,
683(b) .....	50:972.	§§ 240, 241, 66 Stat. 492.

In subsection (a), the word “title” is substituted for the word “chapter”. The provisions of this title relating to active duty of reservists are based on the Armed Forces Reserve Act of 1952. The words “shall be considered \* \* \* as if it were” are substituted for the words “shall be counted \* \* \* the same as like”.

In subsections (a) and (b), the words “active duty for training” are omitted as covered by the words “active duty”.

In subsection (b), the word “kept” is substituted for the words “retained or continued”. The words “pursuant to law” are omitted as surplusage.

## AMENDMENTS

1994—Pub. L. 103-337 renumbered section 683 of this title as this section.

**§ 12316. Payment of certain Reserves while on duty**

(a) Except as provided by subsection (b), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who performs duty for which he is entitled to compensation, may elect to receive for that duty either—

- (1) the payments to which he is entitled because of his earlier military service; or
- (2) if he specifically waives those payments, the pay and allowances authorized by law for the duty that he is performing.

(b) Unless the payments because of his earlier military service are greater than the compensation prescribed by subsection (a)(2), a Reserve of the Army, Navy, Air Force, Marine Corps, or Coast Guard who because of his earlier military service is entitled to a pension, retired or retainer pay, or disability compensation, and who upon being ordered to active duty for a period of more than 30 days in time of war or national emergency is found physically qualified to perform that duty, ceases to be entitled to the payments because of his earlier military service until the period of active duty ends. While on

that active duty, he is entitled to the compensation prescribed by subsection (a)(2). Other rights and benefits of the member or his dependents are unaffected by this subsection.

(Added Pub. L. 85-861, § 1(15), Sept. 2, 1958, 72 Stat. 1441, § 684; amended Pub. L. 93-586, § 1, Jan. 2, 1975, 88 Stat. 1920; renumbered § 12316, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)

## HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
684(a) .....	10 App.:369b (less proviso and last 3 sentences). 34 App.:853e-1 (less provisos and last 3 sentences).	Aug. 2, 1946, ch. 756, § 10; restated Sept. 27, 1950, ch. 1053, § 1, 64 Stat. 1067; July 12, 1955, ch. 337, §§ 1, 4, 69 Stat. 300, 301.
684(b) .....	10 App.:369b (proviso and last 3 sentences). 34 App.:853e-1 (provisos and last 3 sentences).	Sept. 27, 1950, ch. 1053, § 2, 64 Stat. 1067; July 12, 1955, ch. 337, §§ 2, 4, 69 Stat. 301.

In subsections (a) and (b), the words “retirement pay” are omitted as covered by the words “retired pay”.

In subsection (a), the words “Except as provided by subsection (b)” are inserted for clarity. The words “who performs duty for which he is entitled to compensation, may elect to receive for that duty” are substituted for the words “may elect, with reference to periods of active duty, active duty for training, drill, training, instruction, or other duty for which they may be entitled to receive compensation pursuant to any provisions of law”. The words “Notwithstanding the provisions of any other law”, in 10 App.:369b, and “or relinquish” are omitted as surplusage.

Subsection (a)(1) is substituted for clause (2) of 10 App.:369b, and clause (2) of 34 App.:853e-1.

In subsection (a)(2), the words “pay and allowances authorized by law for the duty that he is performing” are substituted for clause (1) of 10 App.:369b and 34 App.:853e-1.

In subsection (b), the word “extended”, the next to the last sentence of 10 App.: 369b and of 34 App.: 853e-1, and the first proviso of 34 App.:853e-1, are omitted as surplusage.

## AMENDMENTS

1994—Pub. L. 103-337 renumbered section 684 of this title as this section.

1975—Subsecs. (a), (b). Pub. L. 93-586 inserted reference to Coast Guard.

## TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

**§ 12317. Reserves: theological students; limitations**

A Reserve may not be required to serve on active duty, or to participate in inactive duty training, while preparing for the ministry in a recognized theological or divinity school.

(Added Pub. L. 85-861, § 1(15), Sept. 2, 1958, 72 Stat. 1441, § 685; renumbered § 12317, Pub. L. 103-337, div. A, title XVI, § 1662(e)(2), Oct. 5, 1994, 108 Stat. 2992.)